

REMARKS

This paper is submitted in response to the final Office Action mailed on November, 2006 and is being submitted with a Request for Continued Examination. Claims 1, 19, 37, 43, 53, 55, 65, 66 and 74 have been amended. Claims 1-78 remain pending in the application. In view of the foregoing amendments, as well as the following remarks, Applicant respectfully submits that this application is in complete condition for allowance and requests reconsideration of the application in this regard.

Personal Interview

Applicant's counsel appreciates the courtesy extended by the Examiner during the personal interview conducted on January 26, 2007. During that interview, differences between the claimed subject matter recited in claim 1 and the teachings of U.S. Patent No. 5,577,612 to Chesson ("Chesson") were discussed. In particular, the Examiner was taking an interpretation of the claim term "dispenser portion" such that, in his view, Chesson taught a dispenser portion formed from more than one of the flaps. Applicant's counsel suggested that the claim be amended to recite some structural elements that more clearly define the dispenser portion. In this regard, it was suggested to more clearly define the dispenser portion via tear lines and recite that the tear lines are formed in more than one of the flaps. Although a formal agreement could not be reached, due to a Supervisory Examiner being unavailable at the time of the interview, the Examiner indicated that he thought such an amendment would overcome the rejections based on Chesson. Applicant has amended independent claim 1, and several of the remaining independent claims, in accordance with the discussion during

the interview.

Claims 1-3, 6-10, 14, 15 and 18, of which claim 1 is independent, stand rejected under 35 U.S.C. § 102(b) as being anticipated by Chesson. Independent claim 1 has been amended to more clearly define around Chesson. In particular, claim 1 has been amended in the manner discussed during the interview to make clear that the dispenser portion is defined by at least one tear line and that the tear line is formed in more than one of the flaps of the carton. To this end, claim 1 has been amended to recite "the dispenser portion...defined by at least one tear line formed in more than one of the flaps." As discussed in the previous Office Action Response mailed September 8, 2006 as well as the discussion during the interview, Chesson teaches a reclosable access flap defined in only one of the flaps that form the front panel, namely, the flap identified as reference numeral 512. The remaining flaps that contribute to form the front panel remain in tact and the tear line which forms the reclosable access flap does not extend in any of the flaps other than that identified by 512. Accordingly, for at least this reason, as well as the reasons in the previous response, Applicant respectfully submits that Chesson fails to teach or suggest the combination of elements recited in independent claim 1 and the claim is allowable.

Moreover, as claims 2, 3, 6-10, 14, 15 and 18 depend from allowable claim 1 and further as each of these claims recites a combination of elements not taught or suggested by Chesson, Applicant respectfully submits that these claims are allowable as well.

Claims 4 and 5 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Chesson in view of U.S. Patent No. 4,340,170 to Montealegre ("Montealegre"). Claims 4 and 5 depend from allowable independent claim 1 and Montealegre fails to cure the deficiency in Chesson. Accordingly, for the reasons provided above for independent claim 1, Applicant respectfully submits that Chesson alone or in combination with Montealegre fails to teach or suggest the combination of elements recited in claims 4 and 5 and the claims are allowable.

Claims 11 and 19-78, of which claims 19, 37, 43, 51, 55, 63, 65, 66 and 74 are independent, stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Chesson in view of U.S. Patent No. 5,921,398 to Carroll ("Carroll"). As an initial matter, claim 11 depends from allowable independent claim 1 and Carroll fails to cure the deficiency in Chesson. Accordingly, for the reasons provided above for independent claim 1, Applicant respectfully submits that Chesson alone or in combination with Carroll fails to teach or suggest the combination of elements recited in claim 11 and the claim is allowable.

The rejection of the independent claims 19, 37, 43, 51, 55, 63, 65, 66 and 74 rely upon Chesson as the primary reference. To overcome the rejections, some of the independent claims have been amended similar to independent claim 1 and in accordance with the discussion during the interview. Other of the independent claims already recited language in accordance with the discussion during the interview and thus have not been amended herein. In particular, the independent claims either have been amended to recite or already recite that tear lines define the dispenser portion or

opening and are formed in more than one of the flaps. Moreover, Carroll fails to cure the noted deficiency in Chesson.

In regard to independent claim 19, the claim has been amended in the same manner as independent claim 1. In particular, claim 19 recites "the dispenser portion...defined by at least one tear line formed in more than one of the flaps." Thus, for the reasons provided above, Applicant respectfully submits that claim 19 recites a combination of elements not taught or suggested by Chesson alone or in combination with Carroll and the claim is allowable. Moreover, claims 20-36 and 68-71 depend from allowable claim 19 and are allowable as well.

In regard to independent claim 37, the claim has been amended in the same manner as independent claim 1. In particular, claim 37 recites "the dispenser portion...defined by at least one tear line formed in more than one of the flaps." Thus, for the reasons provided above, Applicant respectfully submits that claim 37 recites a combination of elements not taught or suggested by Chesson alone or in combination with Carroll and the claim is allowable. Moreover, claims 38-42 depend from allowable claim 37 and are allowable as well.

In regard to independent claim 43, the claim has been amended in the same manner as independent claim 1. In particular, claim 43 recites "the dispenser portion...defined by at least one tear line formed in more than one of the flaps." Thus, for the reasons provided above, Applicant respectfully submits that claim 43 recites a combination of elements not taught or suggested by Chesson alone or in combination

with Carroll and the claim is allowable. Moreover, claims 44-50, 72 and 73 depend from allowable claim 43 and are allowable as well.

In regard to independent claim 51, the claim currently recites "a plurality of tear lines adapted to form a dispenser opening..., the tear lines extending through selected ones of the bottom wall flaps and the side wall flaps." Thus, claim 51 already recites claim language in accordance with the discussion during the interview in that the dispenser opening is defined by tear lines and the tear lines extend into more than one of the flaps. Accordingly, Applicant respectfully submits that claim 51 recites a combination of elements not taught or suggested by Chesson alone or in combination with Carroll and the claim is allowable. Moreover, claims 52-54 depend from allowable claim 51 and are allowable as well.

In regard to independent claim 55, the claim has been amended to more clearly define over Chesson in a manner similar to claim 1 and in accordance with the discussion during the interview. In particular, claim 55 recites "at least one scored line adapted to form a dispenser opening in one of the end walls, the at least one scored line located in more than one of the flaps." Accordingly, for the reasons provided above, Applicant respectfully submits that claim 55 recites a combination of elements not taught or suggested by Chesson alone or in combination with Carroll and the claim is allowable. Moreover, claims 56-62 depend from allowable claim 55 and are allowable as well.

In regard to independent claim 63, the claim currently recites "a dispensing end wall formed from combinations of the flaps and having a tear line for

forming a container dispenser, the tear line extending in more than one flap." Thus, claim 53 already recites claim language in accordance with the discussion during the interview in that the dispenser is defined by a tear line and the tear line extends into more than one of the flaps. Accordingly, Applicant respectfully submits that claim 63 recites a combination of elements not taught or suggested by Chesson alone or in combination with Carroll and the claim is allowable. Moreover, claim 64 depends from allowable claim 63 and is allowable as well.

In regard to independent claim 65, the claim has been amended to more clearly define over Chesson in a manner similar to claim 1 and in accordance with the discussion during the interview. In particular, claim 65 recites "a dispenser...being defined by a tear line extending in the top panel and more than one flap that defines the exiting end." Accordingly, for the reasons provided above, Applicant respectfully submits that claim 65 recites a combination of elements not taught or suggested by Chesson alone or in combination with Carroll and the claim is allowable.

In regard to independent claim 66, the claim has been amended to more clearly define over Chesson in a manner similar to claim 1 and in accordance with the discussion during the interview. In particular, claim 66 recites " a dispensing end wall formed by a combination of the flaps having a tear line extending through more than one of the flaps for forming a container dispenser." Accordingly, for the reasons provided above, Applicant respectfully submits that claim 66 recites a combination of elements not taught or suggested by Chesson alone or in combination with Carroll and

the claim is allowable. Moreover, claim 67 depends from allowable claim 66 and is allowable as well.

In regard to independent claim 74, the claim has been amended to more clearly define over Chesson in a manner similar to claim 1 and in accordance with the discussion during the interview. In particular, claim 74 recites "a plurality of tear lines adapted to form a dispenser opening..., the tear lines extending through more than one of the selected flaps forming the one end wall." Accordingly, for the reasons provided above, Applicant respectfully submits that claim 74 recites a combination of elements not taught or suggested by Chesson alone or in combination with Carroll and the claim is allowable. Moreover, claims 75-78 depend from allowable claim 74 and are allowable as well.

Claim 12 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Chesson in view of U.S. Patent No.4,974,771 to Lavery ("Lavery"). Claim 11 depends from allowable independent claim 1 and Lavery fails to cure the deficiency in Chesson. Accordingly, for the reasons provided above for independent claim 1, Applicant respectfully submits that Chesson alone or in combination with Lavery fails to teach or suggest the combination of elements recited in claim 12 and the claim is allowable.

Claim 13 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Chesson in view of U.S. Patent No. 5,690,213 to Matsumura ("Matsumura"). Claim 13 depends from allowable independent claim 1 and Matsumura fails to cure the deficiency in Chesson. Accordingly, for the reasons provided above for independent

claim 1, Applicant respectfully submits that Chesson alone or in combination with Matsumura fails to teach or suggest the combination of elements recited in claim 13 and the claim is allowable.

Claims 16 and 17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Chesson alone or in combination with Carroll. Claims 16 and 17 depend from allowable independent claim 1. Accordingly, for the reasons provided above for independent claim 1, Applicant respectfully submits that Chesson alone or in combination with Carroll fails to teach or suggest the combination of elements recited in claims 16 and 17 and the claims are allowable.

Conclusion

In view of the foregoing remarks, this application is submitted to be in complete condition for allowance and early notice to this affect is earnestly solicited. If the Examiner believes any matter requires further discussion, the Examiner is respectfully invited to telephone the undersigned attorney so that the matter may be promptly resolved.

Applicants do not believe that any fees are due in connection with this response other than the fee for the Request for Continued Examination. However, if such petition is due or any fees are necessary, the Commissioner may consider this to be a request for such and charge any necessary fees to deposit account 23-3000.

Respectfully submitted,
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